

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

NATALIE JOHNSON,

Plaintiff,

v.

ORDER

C.R. BARD INC. and
BARD PERIPHERAL VASCULAR INC.,

19-cv-760-wmc

Defendants.

Before the court is the parties' request for ruling on objections to certain deposition designations as to John McDermott.

DEPON-ENT	PL AFFIRM	DEF OBJECTIONS	PL RESPONSE TO OBJECTIONS	COURT RULING
McDermott, John 02/05/2014		Bard objects to the playing of this deposition under Rules 401, 402 and 403. Mr. McDermott left BPV in 2007, before the Meridian filter was manufactured, and his testimony relates to the Recovery filter, which is irrelevant in this case. Further, much of this testimony relates to Recovery migration deaths and actions taken by Bard regarding the Recovery filter.	Bard chose to market the Meridian filter using the 510(k) process which relied upon the Recovery filter as the predicate. All G2 filter platform filters, including the Meridian trace their design history to the Recovery filter and the defects in the Meridian design only can be understood only in the context of the entire filter-line development. Testimony regarding the Recovery, G2 and Eclipse filter's complications, testing, warnings and design are relevant and are not unfairly prejudicial. Judge Campbell agreed with this position in	OVERRULED

			Jones v. Bard. [MDL Order No. 10819]. The failure modes are relevant to the assessment of the defects in the design of the filter whether a particular failure mode has occurred; however, Mrs. John has experienced tilt, migration, perforation, and fracture of her filter with pieces of the device embolizing to her heart. She is still at risk for death or serious injury in the future.	
McDermott, John 02/05/2014	9:12-9:17			
McDermott, John 02/05/2014	22:24- 23:10 beginning with "while you were..."			
McDermott, John 02/05/2014	24:02- 24:05			
McDermott, John 02/05/2014	24:07			
McDermott, John 02/05/2014	24:09- 24:14			
McDermott, John 02/05/2014	27:14- 27:18			
McDermott, John 02/05/2014	27:21- 27:23			

McDermott, John 02/05/2014	28:10- 28:13			
McDermott, John 02/05/2014	66:03- 66:05 beginning with "did you ever..."			
McDermott, John 02/05/2014	66:09- 66:10			
McDermott, John 02/05/2014	66:15- 66:19	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect. This testimony relates to alleged "bad acts" regarding the Recovery that were excluded by MIL.	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	SUSTAIN
McDermott, John 02/05/2014	66:21	Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect.	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	SUSTAIN
McDermott, John 02/05/2014	66:23- 67:05	Rules 401, 402, 403 – Testimony relates to irrelevant and prejudicial evidence regarding Bard's conduct related to the Recovery Filter. Irrelevant and any probative value outweighed by prejudicial effect. If allowed, the	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	SUSTAIN

		counters are necessary for completeness		
McDermott, John 02/05/2014	69:14- 69:15	Rules 401, 402, 403 – Testimony relates to irrelevant and prejudicial evidence regarding Bard's conduct related to the Recovery Filter. Irrelevant and any probative value outweighed by prejudicial effect. Also, incomplete answer. The answer continues on lines, 15,16, 19 and 21-22	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	OVERRULED
McDermott, John 02/05/2014	78:22- 79:04 beginning with "But did you..." We are Redacting the word Death from 78:24.	Rules 401, 402, 403 – This testimony violates the Court's ruling on Recovery migration deaths. This case does not involve a fatal migration or a Recovery Filter. This testimony is overly prejudicial and has no bearing on the facts of this case. The Court has ruled this testimony is not substantially similar to the facts in this case and, therefore, should be excluded. (See ECF No. 204, p. 3-5.)	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	OVERRULED
McDermott, John 02/05/2014	83:05- 83:06 beginning with "Exhibit 2..."	Rule 602 – witness does not have personal knowledge of the document. See, 84:4-9. Rules 401, 402, 403 – Testimony relates to irrelevant and prejudicial evidence regarding Bard's conduct related to the Recovery Filter. Irrelevant and any probative value	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	OVERRULED

		outweighed by prejudicial effect.		
McDermott, John 02/05/2014	83:09- 84:03	Rule 602 – witness does not have personal knowledge of the document. See, 84:4-9. Rules 401, 402, 403 – Testimony relates to irrelevant and prejudicial evidence regarding Bard's conduct related to the Recovery Filter. Irrelevant and any probative value outweighed by prejudicial effect.	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	OVERRULED
McDermott, John 02/05/2014	87:03- 87:05	Rule 602 – witness does not have personal knowledge of the document. See, 84:4-9. Rules 401, 402, 403 – Testimony relates to irrelevant and prejudicial evidence regarding Bard's conduct related to the Recovery Filter. Irrelevant and any probative value outweighed by prejudicial effect.	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	OVERRULED
McDermott, John 02/05/2014	91:01- 91:13 beginning with "this is page..."	Rule 602 – witness does not have personal knowledge of the document. See, 84:4-9. Counsel is reading from the document. Rules 401, 402, 403 – Testimony relates to irrelevant and prejudicial evidence regarding Bard's conduct related to the Recovery Filter. Irrelevant and any probative value	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	OVERRULED

		outweighed by prejudicial effect.		
McDermott, John 02/05/2014	91:14- 91:22	Rule 602 – witness does not have personal knowledge of the document. See, 84:4-9. Rules 401, 402 & 403 (sustained by Judge Campbell) . Rules 401, 402, 403 – Testimony relates to irrelevant and prejudicial evidence regarding Bard's conduct related to the Recovery Filter. Irrelevant and any probative value outweighed by prejudicial effect.	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	OVERRULED
McDermott, John 02/05/2014	92:03- 92:18	Rule 602 – witness does not have personal knowledge of the document. See, 84:4-9. Rules 401, 402 & 403 (sustained by Judge Campbell). Rules 401, 402, 403 – Testimony relates to irrelevant and prejudicial evidence regarding Bard's conduct related to the Recovery Filter. Irrelevant and any probative value outweighed by prejudicial effect.	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	OVERRULED
McDermott, John 02/05/2014	93:18	Rules 401, 402 & 403 (sustained by Judge Campbell). Rules 401, 402, 403 – Testimony relates to irrelevant and prejudicial evidence regarding Bard's conduct related to the Recovery Filter. Irrelevant and any	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	SUSTAIN

		probative value outweighed by prejudicial effect.		
McDermott, John 02/05/2014	93:25- 94:01 beginning with "So we're on..."	Rule 602 – there is no indication that the witness has personal knowledge of the document and counsel is simply reading from it. Rules 401, 402 & 403 (sustained by Judge Campbell). Rules 401, 402, 403 – Testimony relates to irrelevant and prejudicial evidence regarding Bard's conduct related to the Recovery Filter. Irrelevant and any probative value outweighed by prejudicial effect.	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	SUSTAIN
McDermott, John 02/05/2014	94:17- 94:18 beginning with "It's Bates No..."	Rule 602 – there is no indication that the witness has personal knowledge of the document and counsel is simply reading from it. Rules 401, 402 & 403 (sustained by Judge Campbell). Rules 401, 402, 403 – Testimony relates to irrelevant and prejudicial evidence regarding Bard's conduct related to the Recovery Filter. Irrelevant and any probative value outweighed by prejudicial effect. Rules 401, 402, and 403 – testimony concerns what physician would have wanted to know / would expect a	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	SUSTAIN

		manufacturer to tell him/her.		
McDermott, John 02/05/2014	94:20- 95:03	Rule 602 – there is no indication that the witness has personal knowledge of the document and counsel is simply reading from it. Rules 401, 402 & 403 (sustained by Judge Campbell). Rules 401, 402, 403 – Testimony relates to irrelevant and prejudicial evidence regarding Bard's conduct related to the Recovery Filter. Irrelevant and any probative value outweighed by prejudicial effect.	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	SUSTAIN
McDermott, John 02/05/2014	98:06- 98:10	Rules 401, 402 & 403. (sustained by Judge Campbell).		SUSTAIN
McDermott, John 02/05/2014	98:14- 98:20 beginning with "Isn't that..."	Rule 602 – witness has no personal knowledge of the document and is simply agreeing that counsel is reading it correctly.		SUSTAIN
McDermott, John 02/05/2014	101:10- 101:14	Rules 401, 402 & 403. This is not a question. Counsel is testifying.		SUSTAIN
McDermott, John 02/05/2014	105:22- 106:01 beginning with "this was..."	Rules 401, 402, 403 – Testimony relates to irrelevant and prejudicial evidence regarding Bard's conduct related to the	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	SUSTAIN

	ending with "Yeah."	Recovery Filter. Irrelevant and any probative value outweighed by prejudicial effect. Again, counsel is testifying and the witness is confirming what was read.		
McDermott, John 02/05/2014	107:15- 108:14	Rules 401, 402, 403 – Testimony relates to irrelevant and prejudicial evidence regarding Bard's conduct related to the Recovery Filter. Irrelevant and any probative value outweighed by prejudicial effect. Again, counsel is testifying and the witness is confirming what was read.	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	SUSTAIN
McDermott, John 02/05/2014	108:23- 109:05 beginning with "is there any..."	Rules 401, 402, 403 – Testimony relates to irrelevant and prejudicial evidence regarding Bard's conduct related to the Recovery Filter. Irrelevant and any probative value outweighed by prejudicial effect. Again, counsel is testifying and the witness is confirming what was read.	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	SUSTAIN
McDermott, John 02/05/2014	111:16- 111:20	This testimony relates to the Reecovory filter and alleged bad acts regarding the Recovery filter. Rules 401, 402, 403 – Testimony relates to irrelevant and prejudicial evidence regarding Bard's conduct related to the Recovery Filter. Irrelevant and any probative value outweighed by prejudicial effect.	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	OVERRULED

McDermott, John 02/05/2014	111:23	Rules 401, 402, 403 – Testimony relates to irrelevant and prejudicial evidence regarding Bard's conduct related to the Recovery Filter. Irrelevant and any probative value outweighed by prejudicial effect.	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	OVERRULLED
McDermott, John 02/05/2014	112:01- 112:02	Rules 401, 402, 403 – Testimony relates to irrelevant and prejudicial evidence regarding Bard's conduct related to the Recovery Filter. Irrelevant and any probative value outweighed by prejudicial effect. To the extent this testimony is allowed the counters are necessary for completeness.	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	OVERRULLED
McDermott, John 02/05/2014	112:12- 112:14 start at "it became" end at "in 2004"	Rules 401, 402, 403 – This testimony violates the Court's ruling on Recovery migration deaths. Testimony does not involve filter at issue and/or failure mode at issue; Irrelevant and any probative value outweighed by prejudicial effect. This case does not involve a fatal migration or a Recovery Filter. The Court has ruled this testimony is not substantially similar to the facts in this case and, therefore, should be excluded. (See ECF No. 204, p. 3-5.)	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial. Plaintiff will redact "I showed you that remedial action plan where there was that second reported death" from 112:14-15 as indicated	OVERRULLED

McDermott, John 02/05/2014	112:15- 112:18 Start at "that the"	Rules 401, 402, 403 – This testimony violates the Court's ruling on Recovery migration deaths. Testimony does not involve filter at issue and/or failure mode at issue; Irrelevant and any probative value outweighed by prejudicial effect. This case does not involve a fatal migration or a Recovery Filter. The Court has ruled this testimony is not substantially similar to the facts in this case and, therefore, should be excluded. (See ECF No. 204, p. 3-5.)	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial. Plaintiff will redact "I showed you that remedial action plan where there was that second reported death" from 112:14-15 as indicated	VERRULED
McDermott, John 02/05/2014	112:20- 112:22	Rules 401, 402, 403 – This testimony violates the Court's ruling on Recovery migration deaths. Testimony does not involve filter at issue and/or failure mode at issue; Irrelevant and any probative value outweighed by prejudicial effect. This case does not involve a fatal migration or a Recovery Filter. This testimony is overly prejudicial and has no bearing on the facts of this case. The Court has ruled this testimony is not substantially similar to the facts in this case and, therefore, should be excluded. (See ECF No. 204, p. 3-5.)	See Plaintiff's response to Bard's general objection above. The testimony is relevant and is not unfairly prejudicial.	VERRULED

McDermott, John 02/05/2014	143:09- 144:01	No foundation, calls for speculation.		OVERRULED but strike lines 143:15 and 143:25.
McDermott, John 02/05/2014	190:11- 190:16 beginning with "I marked..."	Rules 601 & 602. The witness testified he was not involved in the creation of this document and has no personal knowledge about it. See, 190:17-23	see Plaintiff's response to Bard's general objection above. Further, the testimony of the witness established his knowledge of the subject matter and he is also charged with such knowledge by virtue of his position at Bard. The testimony is relevant and is not unfairly prejudicial.	OVERRULED
McDermott, John 02/05/2014	192:12- 192:14	Rules 601 & 602. See 192: 17-193:5. The witness testified he was not involved in the creation of this document and has no personal knowledge about it. Rules 401, 402, 403. Testimony does not involve filter at issue and/or failure modes at issue; Irrelevant and any probative value outweighed by prejudicial effect.	see Plaintiff's response to Bard's general objection above. Further, the testimony of the witness established his knowledge of the subject matter and he is also charged with such knowledge by virtue of his position at Bard. The testimony is relevant and is not unfairly prejudicial.	OVERRULED
McDermott, John 02/05/2014	194:17- 195:03	Rules 601, 602 & 612. Document is after witness left the company. He has no personal knowledge. (see 284:5) (Objection sustained by Judge Campbell). Rules 401, 402, 403 – Testimony does not involve filter at issue and/or failure mode at issue; Irrelevant and any probative value outweighed by prejudicial effect. Witness is simply confirming what the	see Plaintiff's response to Bard's general objection above. Further, the testimony of the witness established his knowledge of the subject matter and he is also charged with such knowledge by virtue of his position at Bard. The testimony is relevant and is not unfairly prejudicial.	OVERRULED

		exhibit says. If testimony is allowed, counters at 195-196 are necessary for completeness, and will not make sense out of context.		
McDermott, John 02/05/2014	196:12-197:07	Rules 601, 602 & 612. Document is after witness left the company. He has no personal knowledge. (see 284:5) (Objection sustained by Judge Campbell). Rules 401, 402, 403 – Testimony does not involve filter at issue and/or failure mode at issue; Irrelevant and any probative value outweighed by prejudicial effect.	see Plaintiff's response to Bard's general objection above. Further, the testimony of the witness established his knowledge of the subject matter and he is also charged with such knowledge by virtue of his position at Bard. The testimony is relevant and is not unfairly prejudicial.	OVERRULED
McDermott, John 02/05/2014	228:17-228:23	Rules 410, 402 and 403- implies Bard has a duty to patients when the law in Wisconsin is that the duty to warn is to the physician.	No such implication. The testimony is relevant and is not unfairly prejudicial.	OVERRULED
McDermott, John 02/05/2014	229:04-229:08			
McDermott, John 02/05/2014	230:08			
McDermott, John 02/05/2014	284:02-284:15 beginning with "Exhibit 15.."	Rules 601, 602 and 612. Witness has no personal knowledge of the document that was written 4 years after he left the company, and counsel is reading the document into evidence. See, 284:5.	see Plaintiff's response to Bard's general objection above. Further, the testimony of the witness established his knowledge of the subject matter and he is also charged with such knowledge by virtue of his position at Bard. The	SUSTAIN

			testimony is relevant and is not unfairly prejudicial.	
McDermott, John 02/05/2014	285:01- 285:10 beginning with "And if you..."	Rules 601, 602 and 612. Witness has no personal knowledge of the document that was written 4 years after he left the company, and counsel is reading the document into evidence.	see Plaintiff's response to Bard's general objection above. Further, the testimony of the witness established his knowledge of the subject matter and he is also charged with such knowledge by virtue of his position at Bard. The testimony is relevant and is not unfairly prejudicial.	SUSTAIN
McDermott, John 02/05/2014	285:12	Rules 601, 602 and 612. Witness has no personal knowledge of the document that was written 4 years after he left the company, and counsel is reading the document into evidence.	see Plaintiff's response to Bard's general objection above. Further, the testimony of the witness established his knowledge of the subject matter and he is also charged with such knowledge by virtue of his position at Bard.	SUSTAIN
McDermott, John 02/05/2014	285:14- 285:21	Rules 601, 602 and 612. Witness has no personal knowledge of the document that was written 4 years after he left the company, and counsel is reading the document into evidence.	see Plaintiff's response to Bard's general objection above. Further, the testimony of the witness established his knowledge of the subject matter and he is also charged with such knowledge by virtue of his position at Bard. The testimony is relevant and is not unfairly prejudicial.	SUSTAIN
McDermott, John 02/05/2014	285:24- 285:25	Rules 601, 602 and 612. Witness has no personal knowledge of the document that was written 4 years after he left the company, and counsel is reading the document into evidence.	see Plaintiff's response to Bard's general objection above. Further, the testimony of the witness established his knowledge of the subject matter and he is also charged with such knowledge by virtue of his position at Bard.	SUSTAIN

McDermott, John 02/05/2014	286:02- 286:04	Rules 601, 602 and 612. Witness has no personal knowledge of the document that was written 4 years after he left the company, and counsel is reading the document into evidence.	see Plaintiff's response to Bard's general objection above. Further, the testimony of the witness established his knowledge of the subject matter and he is also charged with such knowledge by virtue of his position at Bard. The testimony is relevant and is not unfairly prejudicial.	SUSTAIN
McDermott, John 02/05/2014	288:13- 289:03			
McDermott, John 02/05/2014	289:05- 289:07			
McDermott, John 02/05/2014	296:17- 296:22			
McDermott, John 02/05/2014	296:24			
McDermott, John 02/05/2014	297:01- 297:24 beginning with "Now, one..."			
McDermott, John 02/05/2014	303:13- 303:23 beginning with "in some..."	This violates the Court's ruling on Recovery migration deaths. The "reports" on line 13 refer to reports of migration deaths. Rules 401, 402, 403 – Testimony does not involve filter at issue and/or failure mode at issue; Irrelevant and any probative value	See Plaintiff's response above to Bard's general FRE 402 and 403 objections. The testimony is relevant and is not unfairly prejudicial. It does not violate the court's ruling as it does not mention a Recovery cephalad migration death. It talks about a physician's response to one complaint of migration. It is relevant to	OVERRULED

		outweighed by prejudicial effect.	the failure to warn and negligence claims and is not unfairly prejudicial.	
McDermott, John 02/05/2014	307:01-307:15	Rules 401, 402, 403 – Testimony does not involve filter at issue and/or failure mode at issue; Irrelevant and any probative value outweighed by prejudicial effect. 307:14-15 is a question without an answer – calls for speculation	See Plaintiff's response above to Bard's general FRE 402 and 403 objections. The testimony is relevant and is not unfairly prejudicial. The answer to 307:14-15 begins at 307:19 and there is no speculation.	OVERRULED
McDermott, John 02/05/2014	307:19-307:20	Rules 401, 402, 403 – Testimony does not involve filter at issue and/or failure mode at issue; Irrelevant and any probative value outweighed by prejudicial effect.	See Plaintiff's response above to Bard's general FRE 402 and 403 objections. The testimony is relevant and is not unfairly prejudicial.	OVERRULED
McDermott, John 02/05/2014	307:22-307:23	Rules 401, 402, 403 – Testimony does not involve filter at issue and/or failure mode at issue; Irrelevant and any probative value outweighed by prejudicial effect.	See Plaintiff's response above to Bard's general FRE 402 and 403 objections. The testimony is relevant and is not unfairly prejudicial.	OVERRULED
McDermott, John 02/05/2014	308:04-308:08	This violates the Court's ruling recovery migration deaths. Rules 401, 402, 403 – Testimony does not involve filter at issue and/or failure mode at issue; Irrelevant and any probative value outweighed by prejudicial effect. This case does not involve a fatal migration or a Recovery Filter. This	See Plaintiff's response above to Bard's general FRE 402 and 403 objections. The testimony is relevant and is not unfairly prejudicial. The question and answer do not violate the Court's MIL ruling as the question and answer do not mention a Recovery Cephalad migration death. They reference the rising number	OVERRULED

		testimony is overly prejudicial and has no bearing on the facts of this case. The Court has ruled this testimony is not substantially similar to the facts in this case and, therefore, should be excluded. (See ECF No. 204, p. 3-5.)	of complications experienced by the filter and known to Bard and that evidence has not been excluded.	
McDermott, John 02/05/2014	308:10	This violates the Court's ruling recovery migration deaths. Rules 401, 402, 403 – Testimony does not involve filter at issue and/or failure mode at issue; Irrelevant and any probative value outweighed by prejudicial effect.	See Plaintiff's response above to Bard's general FRE 402 and 403 objections. The testimony is relevant and is not unfairly prejudicial. The question and answer do not violate the Court's MIL ruling as the question and answer do not mention a Recovery Cephalad migration death. They reference the rising number of complications experienced by the filter and known to Bard and that evidence has not been excluded.	OVERRULED
McDermott, John 02/05/2014	311:12- 312:08	Rules 401, 402, 403 – Testimony does not involve filter at issue and/or failure mode at issue; Irrelevant and any probative value outweighed by prejudicial effect.	See Plaintiff's response above to Bard's general FRE 402 and 403 objections. The testimony is relevant and is not unfairly prejudicial.	SUSTAIN
McDermott, John 02/05/2014	317:15- 317:21	Rules 401, 402, 403 – Testimony does not involve filter at issue and/or failure mode at issue; Irrelevant and any probative value outweighed by prejudicial effect.	See Plaintiff's response above to Bard's general FRE 402 and 403 objections. The testimony is relevant and is not unfairly prejudicial.	SUSTAIN

McDermott, John 02/05/2014	320:21- 320:24 beginning with "The comparis on..."			
McDermott, John 02/05/2014	321:01			
McDermott, John 02/05/2014	349:17- 349:21			
McDermott, John 02/05/2014	349:25			
McDermott, John 02/05/2014	350:02- 350:03			
McDermott, John 02/05/2014	350:06			
DEPON- ENT	DEF COUNT- ER	PL OBJECTIONS	DEF RESPONSE TO OBJECTIONS	COURT RULING
McDermott, John 02/05/2014	65:12- 65:17			
McDermott, John 02/05/2014	65:19 (anybody)			
McDermott, John 02/05/2014	65:21- 66:03 (ends at other)			

McDermott, John 02/05/2014	66:07			
McDermott, John 02/05/2014	67:06- 67:07			STRIKE
McDermott, John 02/05/2014	67:09			STRIKE
McDermott, John 02/05/2014	69:15- 69:16 (They're)	Non-responsive. Objection located at 69:23.	Plaintiff may not appreciate the witness' complete answer, but that does not mean that it is non-responsive. The designated testimony reflects the witness' complete response to Plaintiff's counsel attempting to force the witness into a yes or no answer with which he is uncomfortable, and to explain his discomfort with that answer.	OVERRULED
McDermott, John 02/05/2014	69:19	Non-responsive. Objection located at 69:23.	Plaintiff may not appreciate the witness' complete answer, but that does not mean that it is non-responsive. The designated testimony reflects the witness' complete response to Plaintiff's counsel attempting to force the witness into a yes or no answer with which he is uncomfortable, and to explain his discomfort with that answer.	OVERRULED
McDermott, John 02/05/2014	69:21- 69:22	Non-responsive. Objection located at 69:23.	Plaintiff may not appreciate the witness' complete answer, but that does not mean that it is non-responsive. The designated	OVERRULED

			testimony reflects the witness' complete response to Plaintiff's counsel attempting to force the witness into a yes or no answer with which he is uncomfortable, and to explain his discomfort with that answer.	
McDermott, John 02/05/2014	78:15- 78:21 subject to objection			
McDermott, John 02/05/2014	84:04- 84:09 subject to objection	Plaintiff objects under rules 401, 402 and 403. Who exactly reviewed or contributed to the document is irrelevant to the issues at hand.	This testimony is relevant to establish that Plaintiff's counsel is questioning the witness on a document he did not be involved in creating, to establish who created the document being discussed (contrary to Plaintiff's objection, this testimony does not list individuals who contributed to this document), and to establish the processes at Bard, which Plaintiff attempts to impugn through various other deposition testimony.	OVERRULED
McDermott, John 02/05/2014	84:14- 84:16 subject to objection	Plaintiff objects under rules 401, 402 and 403. Who exactly reviewed or contributed to the document is irrelevant to the issues at hand.	This testimony is relevant to establish that Plaintiff's counsel is questioning the witness on a document he did not be involved in creating, to establish who created the document being discussed (contrary to Plaintiff's objection, this testimony does not list individuals who contributed to this document), and to establish the processes at	OVERRULED

			Bard, which Plaintiff attempts to impugn through various other deposition testimony.	
McDermott, John 02/05/2014	84:21- 84:23 subject to objection	Plaintiff objects under rules 401, 402 and 403. Who exactly reviewed or contributed to the document is irrelevant to the issues at hand.	This testimony is relevant to establish that Plaintiff's counsel is questioning the witness on a document he did not be involved in creating, to establish who created the document being discussed (contrary to Plaintiff's objection, this testimony does not list individuals who contributed to this document), and to establish the processes at Bard, which Plaintiff attempts to impugn through various other deposition testimony.	OVERRULED
McDermott, John 02/05/2014	95:10- 95:17	Plaintiff objects under rules 401, 402 and 403. Who exactly reviewed or contributed to the document is irrelevant to the issues at hand.	This testimony is relevant to establish that Plaintiff's counsel is questioning the witness on a document he did not be involved in creating, to establish who created the document being discussed (contrary to Plaintiff's objection, this testimony does not list individuals who contributed to this document), and to establish the processes at Bard, which Plaintiff attempts to impugn through various other deposition testimony.	OVERRULED
McDermott, John 02/05/2014	105:16- 105:22			STRIKE

	(end at but)			
McDermott, John 02/05/2014	106:01- 106:07 (The --)			STRIKE
McDermott, John 02/05/2014	107:10- 107:14			STRIKE
McDermott, John 02/05/2014	112:05- 112:08			
McDermott, John 02/05/2014	127:10- 127:15	vague	Witness is simply attempting to answer the question posed by Plaintiff's own counsel. Plaintiff fails to explain how the testimony is vague.	OVERRULED
McDermott, John 02/05/2014	127:17	vague	Witness is simply attempting to answer the question posed by Plaintiff's own counsel. Plaintiff fails to explain how the testimony is vague.	OVERRULED
McDermott, John 02/05/2014	128:02- 128:07	vague	Witness is simply attempting to answer the question posed by Plaintiff's own counsel. Plaintiff fails to explain how the testimony is vague.	OVERRULED
McDermott, John 02/05/2014	137:16- 137:20			
McDermott, John 02/05/2014	137:22- 137:23	non-responsive.	The witness responding that he believes Bard was "always very transparent" is responsive to Plaintiff's counsel's question as to what might constitute transparency.	OVERRULED
McDermott, John 02/05/2014	190:17- 190:23	FRE 602	The witness is merely attempting to respond to Plaintiff's counsel's repeated	OVERRULED

	subject to objection		attempts to elicit an answer, and is not offering anything outside of his own personal understanding and recollection.	
McDermott, John 02/05/2014	192:17- 193:05 subject to objection	leading;answer non- responsive; calls for speculation	Plaintiff objects here that her own counsel is leading an adverse witness, which he is permitted to do on cross. Moreover, the witness provides a complete response of what he personally recollects regarding the subject matter of Plaintiff's counsel's question.	OVERRULED
McDermott, John 02/05/2014	195:10- 195:13 subject to objection	non-responsive	The designated testimony is the witness' complete answer to the previous question. It is directly responsive to the previous question, and provides an explanation of his answer.	OVERRULED
McDermott, John 02/05/2014	195:23- 196:11 subject to objection			
McDermott, John 02/05/2014	199:24- 199:25 subject to objection			
McDermott, John 02/05/2014	229:01			
McDermott, John 02/05/2014	291:06- 291:08 (end at was:)	Plaintiff objects under rules 401, 402 and 403. This is an unnecessary and non-relevant statement/sidebar. This also is not a question.	Plaintiff's counsel's is necessary to establish why the witness' response, which was designated by Plaintiff, appears confused.	SUSTAIN

Accordingly, IT IS ORDERED that the parties' request for rulings on objections to certain designations is GRANTED, and the objections are sustained in part and overruled in part as provided above.

Entered this 5th day of June, 2021.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge